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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,539	08/19/2003	Silke Wolff	2724	4283

7590 10/06/2005

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HUNTINGTON, NY 11743

EXAMINER

BOLDEN, ELIZABETH A

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/643,539

Applicant(s)

WOLFF ET AL.

Examiner

Elizabeth A. Bolden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/6/04, 12/22/03</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

The information disclosure statements (IDS) submitted on 22 December 2003 and 6 February 2004 have been considered by the examiner.

### ***Claim Objections***

Claims 1, 5, 8, and 11 are objected to because of the following informalities:

It is unclear in claims 1, 5, 8, and 11 what is included in the limitation of  $\Sigma M_2O$ .  $M_2O$  can include all alkali metal oxides not just  $Na_2O$  or  $K_2O$ .

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Korekawa, Japanese Patent Publication JP 09-278479.

A machine-generated translation of JP 09-278479 accompanies this action. In reciting this rejection, the examiner will cite this translation.

Korekawa discloses a zinc phosphate optical glass composition, which anticipates all the instant, claims 1-4. See example 9 on page 6 of the Japanese patent. Korekawa discloses that the optical glass is used as an optical element or optical product. See paragraph [0002]. Korekawa discloses properties for example 9 which anticipate instant claim 1. See Table on page 7 of the Japanese parent.

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Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Oguma et al., U.S. Patent 5,668,066.

Oguma et al. disclose a zinc phosphate optical glass composition, which anticipates instant, claims 1 and 14. See example 8 in table 8. Korekawa discloses that the optical glass is used as an optical element or optical product. See paragraph [0002].

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Oguma et al. would inherently possess the properties recited in claim 1. See MPEP 2112.

Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Oguma et al., Japanese Patent Publication JP 11-268927.

A machine-generated translation of JP 11-268927 accompanies this action. In reciting this rejection, the examiner will cite this translation.

Oguma et al. disclose a zinc phosphate optical glass composition, which anticipates instant, claims 1 and 14. See example 4 in table 8. Oguma discloses that the optical glass is used as an optical element or optical product. See paragraph [0002].

Since the composition of the reference is the same as those claimed herein it follows that the glasses of Oguma et al. would inherently possess the properties recited in claim 1. See MPEP 2112.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korekawa, Japanese Patent Publication JP 09-278479.

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A machine-generated translation of JP 09-278479 accompanies this action. In reciting this rejection, the examiner will cite this translation.

Korekawa teach a zinc phosphate optical glass composition having overlapping ranges of components with instant claims 5-13. See abstract, claim 2, and paragraph [0015]. Korekawa teach an optical glass having overlapping ranges of refractive index, Abbe number, and glass transformation temperature as recited in instant claims 5, 8, and 11. See Abstract, claim1, and paragraph [0014]

Korekawa fails to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional and property limitations of claims 5-13. Korekawa does not teach the thermal properties of the glass as recited in claims 9, 10, and 13. However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Claims 2-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Oguma et al., U.S. Patent 5,668,066.

Oguma et al. teach a zinc phosphate optical glass composition having overlapping ranges of components with instant claims 5-13. See abstract, claim 2, and paragraph [0015]. Oguma et al. teach an optical glass having overlapping ranges of refractive index, Abbe number, and glass Transformation as recited in instant claims 5, 8, and 11. See Abstract, claim1, and paragraph [0014]

Oguma et al. fail to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional and property limitations of claims 2-13. See Abstract Tajima does not teach the thermal properties of the glass as recited in claims 9, 10, and 13. However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the

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reference because overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Claims 2-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Oguma et al., Japanese Patent Publication JP 11-268927.

A machine-generated translation of JP 11-268927 accompanies this action. In reciting this rejection, the examiner will cite this translation.

Oguma et al. teach a zinc phosphate optical glass composition having overlapping ranges of components with instant claims 2-13. See abstract, claim 2, and paragraph [0015]. Oguma et al. teach an optical glass having overlapping ranges of the glass transformation temperature as recited in instant claims 5, 8, and 11. See Abstract, claim 1, and paragraph [0014]

Oguma et al. fail to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional and property limitations of claims 2-13. Oguma et al. does not teach the thermal properties of the glass as recited in claims 9, 10, and 13. However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have selected from the overlapping portion of the ranges disclosed by the reference because overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 571-272-1363. The examiner can normally be reached on 9:30 am-6:00 pm.

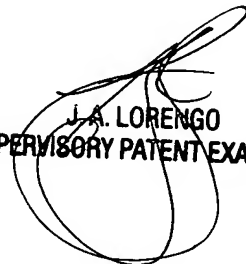
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAB

30 September 2005

  
J.A. LORENZO  
SUPERVISORY PATENT EXAMINER